

W48(436)

Memorandum

To: Federal Agency and Museum Officials and Indian Tribe and Native Hawaiian Organizations Representatives

Through: [*Acting*] Assistant Secretary for Fish and Wildlife and Parks [*signed by Joseph Doddridge, January 21, 1993*].

From: Director, National Park Service [*signed by James Ridenour, January 13, 1993*]

Subject: Summaries, Inventories, and Notification Under the Native American Graves Protection and Repatriation Act of 1990.

The Native American Graves Protection and Repatriation Act (25 U.S.C. §§ 3001-3013) requires museums and Federal agencies to:

1. Document certain Native American human remains and cultural items within their collections;
2. Notify all Indian Tribes and Native Hawaiian organizations that are or are likely to be affiliated with these holdings; and
3. Provide an opportunity for the repatriation of appropriate human remains or cultural items.

These requirements apply to:

1. Any department, agency, or instrumentality of the United States, excepting the Smithsonian Institution as stipulated in Section 2 (a)(4) of the Act.
2. Any institution or State or local government agency (including any institution of higher learning) that has possession or, or control over, human remains or cultural items and received Federal funds. The phrase "receives Federal funds" means receipt of funds by a museum after November 16, 1990, from a Federal agency through any grant, loan, contract (other than a procurement contract), or other arrangement by which a Federal agency makes or made available to museum assistance in the form of funds. Federal funds provided for any purpose which are received by a larger entity of which the museum is a part are considered Federal funds.

Federal agencies are responsible for ensuring that the requirements are met for all collections from their lands, whether the collections are held by the Federal agency or by a non-Federal institution.

The statute established general processes for implementing these requirements. The Secretary of the Interior is responsible for promulgating regulations to carry out the law. This document describes the summary, inventory, and notification provisions of the law and outlines the processes for implementation presently under consideration by the Secretary in the development of regulations. Museums and Federal agencies may wish to consider these processes in any repatriation actions they take prior to promulgation of the required regulations, but this document does not have the force and effect of a regulation and is not legally binding on any museum or Federal agency.

Questions regarding the procedures outlined in this memorandum should be directed to the Departmental Consulting Archeologist, Archeological Assistance Division, National Park Service, P.O. Box 37127, Washington D.C. 20013-7127.

Two types of documentation are required by the statute for existing collections: (a) summaries of collections which may contain unassociated funerary objects, sacred objects, and objects of cultural patrimony, and (b) inventories of human remains and associated funerary objects. The purpose of both documents is to provide information to Native American individuals, Indian Tribes, and Native Hawaiian organizations which will allow them to identify human remains and cultural items to which they are or are likely to be culturally affiliated.

Determination of the cultural affiliation between a present day Indian tribe or Native Hawaiian organization and human remains, funerary objects, sacred objects, and objects of cultural patrimony in museum or Federal agency collections should satisfy all of the following criteria:

1. Existence of an identifiable present day Indian tribe or Native Hawaiian organization.
2. Existence of an identifiable earlier group.
3. Existence of a shared group identity which can be reasonably traced between the present day Indian tribe or Native Hawaiian organization and the earlier group.

The basis for establishing cultural affiliation includes, but is not limited to the following kinds of information: biological, kinship, oral history, archeological, anthropological, linguistic, folkloric, ethnohistorical, expert opinion, and archival data. Each summary and inventory should identify the kinds of data and the reasoning used to determine cultural affiliation or the lack thereof.

- a. **Summary:** The purpose of the summary is to provide information about the holdings of museums and Federal agencies to all Indian Tribes and Native Hawaiian organizations that are or are likely to be affiliated with unassociated funerary objects, sacred objects, and objects of cultural patrimony in those collections. Indian Tribe or Native Hawaiian organization officials can use the summaries to address questions to the museum or Federal agency about particular portions of the holdings or specific kinds of items in the collections. The summaries can also help all Indian tribes and Native Hawaiian organizations to identify the museums or Federal agencies that they may want to contact or visit to review the collections more closely and identify specific unassociated funerary objects, sacred objects, and objects of cultural patrimony.

1. Cultural items to be included in the summary. The statute requires preparation of a written statement by Federal agencies and institutions or museums that receive Federal funds that summarize their holdings that may contain Native American unassociated

funerary objects, sacred objects, and objects of cultural patrimony. These cultural items are defined as follows:

- A. *Unassociated funerary objects* means cultural items that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains, either at the time of death or later, but for which the associated human remains are not in the possession or control of the Federal agency or museum. These cultural items must be identified by a preponderance of the evidence as having been removed from a specific burial site of an individual culturally affiliated with a particular Indian tribe or Native Hawaiian organization, or as being related to specific individuals or to known human remains.
 - B. *Sacred objects* means specific ceremonial objects which are needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present day adherents. The definition includes objects needed for ceremonies currently practiced by traditional Native American religious practitioners. While many items might be imbued with sacredness in the eyes of an individual, from ancient pottery sherds to arrowheads, provisions of the statute are specifically limited to objects that were devoted to a traditional Native American religious ceremony or ritual and which have religious significance or function in the continued observance of such ceremony.
 - C. *Objects of cultural patrimony* means objects having ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual Native American. These objects are so centrally important that they could not be given, taken, or sold by any individual group member at the time the object was separated from the group. Objects of Native American cultural patrimony include items such as Zuni War Gods, the Confederacy Wampum belts of the Iroquois, and other objects of similar character and significance to the Indian tribe as a whole.
2. Required Information. The summary, based on available information held by the institution or Federal agency, describes the scope of holdings that may include unassociated funerary objects, sacred objects, and objects of cultural patrimony at the institution or agency. The summary serves in lieu of an object-by-object inventory of these kinds of cultural items, although if an inventory is available it may be substituted. For each collection, the summary shall include estimates of the number of similar objects in the collection; reference to the means, date(s), and location(s) in which the collection was acquired; and observations about lineal descent, if available, and cultural affiliation. Attachment 1 provides a sample summary.
3. Deadlines.
- A. *Access to Documentation.* At any time, Indian Tribes and Native Hawaiian organizations shall have access to records, catalogues, relevant studies or other

pertinent data for the purposes of determining the geographic origin, cultural affiliation, and basic facts surrounding acquisition and accession of Native American cultural items covered by the written summary. This information may be requested at any time and will be provided in a reasonable manner to be agreed upon by all parties.

- B. *Consultation.* Museum and Federal agency officials shall begin consultation with potentially affiliated Native American individuals and organizations at the earliest possible opportunity, but no later than completion of the summary.
 - C. *Completion.* Summaries shall be completed not later than November 16, 1993. The statute provides no provisions for extension of this deadline. Copies of the summaries will be provided to:
 - i. All Indian tribes and Native Hawaiian organizations that are or are likely to be affiliated with museum or Federal agency collections in order to commence active consultation regarding proper disposition and treatment of these kinds of cultural items; and
 - ii. The Departmental Consulting Archeologist, Archeological Assistance Division, National Park Service, P.O. Box 37127, Washington D.C. 20013-7127.
4. Notification. Repatriation of unassociated funerary objects, sacred objects, or objects of cultural patrimony to lineal descendants or culturally affiliated Indian Tribes or Native Hawaiian organizations shall not proceed prior to submission of an object-by-object description of the objects being requested and a notice of intent to repatriate to the Departmental Consulting Archeologist. The object-by-object description shall include:
- A. Accession and catalogue entries for each object;
 - B. Information related to the acquisition of each object, including the name of the person or organization from whom the object was obtained, if known;
 - C. The date the object was acquired;
 - D. The place the object was acquired;
 - E. The means of acquisition, i.e., gift, purchase, excavation, etc.;
 - F. The antiquity of the object, if known;
 - G. A description of each object, including dimensions, materials, and photographic documentation, if appropriate;
 - H. A summary of the evidence used to determine the cultural affiliation of the object.

The notice of intent to repatriate shall summarize the object-by-object description in sufficient detail so as to enable other individuals or Indian Tribes to determine their interest in the claimed objects. It shall include information that identifies each particular set of claimed unassociated funerary objects, sacred objects, or objects of cultural patrimony and the circumstances surrounding its acquisition, and describes the objects that are clearly identifiable as to tribal origin. It shall also describe the objects that are not clearly identifiable as being culturally affiliated with a particular Indian tribe, but which,

given the totality of the circumstances surrounding acquisition of the objects, are likely to be culturally affiliated with the Indian tribe that has requested them.

The Departmental Consulting Archeologist shall publish the notice of intent to repatriate in the *Federal Register*. The Departmental Consulting Archeologist suggests that each museum or Federal agency allow a period of thirty days following the date of publication of the notification for additional lineal descendants or culturally affiliated Indian tribes to contact the designated museum official or Federal agency official regarding proper treatment and disposition of sensitive items. Repatriation may begin after the thirty day period has elapsed if no additional claimants come forward.

- b. **Inventory:** The inventory serves two purposes. The first purpose is to provide clear descriptions of Native American remains and associated funerary objects. The second purpose is to establish the cultural affiliation between Native American remains and associated funerary objects in museums or Federal agency collections and present day Indian tribes and Native Hawaiian organizations. Inventories shall be undertaken and carried out in consultation with Indian tribe and Native Hawaiian organization representatives and traditional religious leaders. Museums and Federal agencies are encouraged to undertake inventories of those portions of their collections for which information is readily available or about which Indian tribes and Native Hawaiian organizations have expressed special interest. Early focus on these parts of the collections will initiate the consultation process and may result in successful agreements that can serve as models for subsequent inventories.
- 1. Cultural items to be included in the inventory. The statute requires an inventory of all Native American remains and associated funerary objects, which are defined as follows:
 - A. *Native American remains* means physical remnants of the human body, including but not limited to bones, teeth, hair, ashes, and mummified or otherwise preserved soft tissues believed to be of Native American ancestry. This does not include remains or portions of remains freely given by the individual from whose body they were obtained, such as hair made into ropes or nets. For the purpose of determining cultural affiliation, human remains incorporated into a cultural item shall be considered as part of that cultural item.
 - B. *Associated funerary objects* means:
 - i. Cultural items that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual Native American remains either at the time of death or later, and can be associated with a specific set of Native American remains; or
 - ii. Other cultural items made exclusively for burial or to contain Native American remains.
- 2. Required Information. The following documentation should be included for all inventories of Native American remains and associated funerary objects. The purpose is to ensure proper identification and cultural affiliation in order to assure that remains and associated funerary objects may be repatriated to appropriate groups:

- A. Accession and catalogue entries, including those of Native American remains with which funerary objects were associated.
- B. Information related to the acquisition of the item, including the name of the person or organization from whom the item was obtained, if known.
- C. Date the item was acquired.
- D. Place the human remains and associated funerary objects were acquired (ie., name or number of site, county, state, and Federal agency administrative unit, if applicable).
- E. Means of acquisition (ie., gift, purchase, excavation, etc.).
- F. Antiquity of the human remains and associated funerary objects, if known.
- G. A description of each set of remains or object, including dimensions, materials, and photographic documentation, if appropriate.
- H. A summary of the evidence used to determine the remain's or object's cultural affiliation.

Attachment 2 outlines a procedure for establishing the Native American identity and cultural affiliation of human remains and associated funerary objects.

- 3. Museum and Federal agency officials and Indian tribe and Native Hawaiian organization representatives may undertake additional documentation to determine the identity or cultural affiliation of human remains and associated funerary objects which would otherwise be identified as unaffiliated. Additional information may include:

- A. For *Native American remains*, osteological and other documentation may include measurements and observations for the limited purpose of determining the geographic origin and cultural affiliation of the remains.

The individual documenting the human remains should have appropriate experience in skeletal biology and an advanced degree with a specialization in physical anthropology, and be able to conduct analyses of skeletal remains (including age, sex, race, osteometry, identification of osteological disease, and the like).

- B. For *associated funerary objects*, additional documentation may be considered to determine the identity and cultural affiliation of objects and associated human remains which would otherwise be identified as unaffiliated.

4. Deadlines.

- A. *Consultation.* The inventory is to be completed in consultation with tribal government and Native Hawaiian organization officials and traditional religious leaders.
- B. *Documents.* Two separate documents must be completed:
 - i. A listing of all Native American remains and associated funerary objects that are identified as being affiliated with one or more modern Indian tribe or Native Hawaiian organization. Indicate for each item or set of

items whether cultural affiliation is reasonably believed or clearly determined.

- ii. A listing of all Native American remains and associated funerary objects for which no lineal descendent or culturally affiliated contemporary Indian tribe or Native Hawaiian organization can be determined.

C. *Notification.*

- i. Not later than six months after completion, the museum or Federal agency official should send the inventory, with an accompanying letter of notification, to each Indian tribe or Native Hawaiian organization that is or is likely to be affiliated with human remains or associated funerary objects in their collections. The Departmental Consulting Archeologist suggests notifications be sent to the affected parties certified with return receipt requested.

The letter of notification should summarize the contents of the accompanying inventory in enough detail to help individuals or groups to identify cultural items to which they can reasonably be believed to be affiliated.

- ii. Section 5 (d)(2) of the statute requires the letter of notification and listing of affiliated human remains and associated funerary objects should also be sent to the Secretary of the Interior. The Secretary has designated the Departmental Consulting Archeologist to receive these submissions. Please send them to: Departmental Consulting Archeologist, Archeological Assistance Division, National Park Service, P.O. Box 37127, Washington D.C. 20013-7127.

The Departmental Consulting Archeologist suggests that these submissions be sent in both printed hard copy and electronic formats. Documents are preferred in WordPerfect 5.1; for documents created in other word processing formats, specify the word processing program and version. If data are in a database, submit the original database format, specifying the format. If not an xBASE format, submit an ASCII version.

- iii. Section 8(c)(5) of the statute gives the Native American Graves Protection and Repatriation Review Committee responsibility for compiling an inventory of culturally unidentifiable human remains that are in the possession or control of each Federal agency and museum. The Secretary of the Interior has assigned the Departmental Consulting Archeologist to provide staff support for the Review Committee. Inventories of culturally unidentifiable Native American remains should be sent to: Departmental Consulting Archeologist, Archeological Assistance Division, National Park Service, P.O. Box 37127, Washington D.C. 20013-7127.

- iv. The Departmental Consulting Archeologist shall, as the authorized representative of the Secretary of the Interior, see to:
 - a. Publication of the letter of notification in the *Federal Register*.
 - b. Transmittal of the two lists described above to the Native American Graves Protection and Repatriation Review Committee.

The Departmental Consulting Archeologist suggests that each Federal agency or museum allow a period of thirty days following the date of publication of the letter of notification in the *Federal Register* be provided for additional lineal descendants or culturally affiliated Indian tribes or Native Hawaiian organizations to contact the designated Federal agency official or museum official regarding proper treatment and disposition of sensitive items. Attachment 3 provides an example of a *Federal Register* notification which has been used for this purpose. Repatriation may begin after the thirty day period has elapsed if no additional claimants come forward.

- D. *Completion.* Inventories shall be completed not later than November 16, 1995. Any institution receiving Federal funds that has made a good faith effort to complete its inventory of Native American human remains and associated funerary objects, but which will be unable to complete the process by this deadline may appeal to the Secretary for an extension of the time requirements.

Attachments:

- 1: Sample Written Summary
- 2: Procedures of Determining Native American Identity and Cultural Affiliation of Human Remains and Associated Funerary Objects under NAGPRA
- 3: Sample *Federal Register* Notification

Sample Summary

Before November 17, 1993

Chairman or Authorized Official
Indian Tribe or Native Hawaiian Organization
Street
State

Dear Sir/Madame Chair:

I write to inform you of collections held by our museum which may contain unassociated funerary objects, sacred objects, or objects of cultural patrimony that are, or are likely to be, culturally affiliated with your Indian Tribe. This notification is required by Section 6 of the Native American Graves Protection and Repatriation Act.

Our ethnographic collection includes approximately 200 items specifically identified as being manufactured or used by members of your Indian Tribe. These items represent various categories of material culture, including sea and land hunting, fishing, tools, household equipment, clothing, travel and transportation, personal adornment, smoking, toys, and figurines. The collection includes thirteen objects identified in our records as "medicine bags."

Approximately half of these items were collected by John Doe during his expedition to your reservation in 1903 and accessioned by the museum that same year (see Major Museum Publication, no. 65 (1965).

Another 50 of these items were collected by Jane Roe during her expeditions to your reservation between 1950-1960 and accessioned by the museum in 1970 (see Major Museum: no. 75 (1975). Accession information indicates that several of these items were collected from members of the Able and Baker families.

For the remaining approximately 50 items, which were obtained from various collectors between 1930 and 1980, additional collection information is not readily available.

In addition to the above mentioned items, the museum has approximately 50 ethnographic items obtained from the estate of a private collector and identified as being collected from the "northwest portion of the State."

Our archeological collection includes approximately 1,500 items recovered from ten archeological sites on your reservation and another 5,000 items from fifteen sites within the area recognized by the Indian Claims Commission as being part of your Indian Tribe's aboriginal territory.

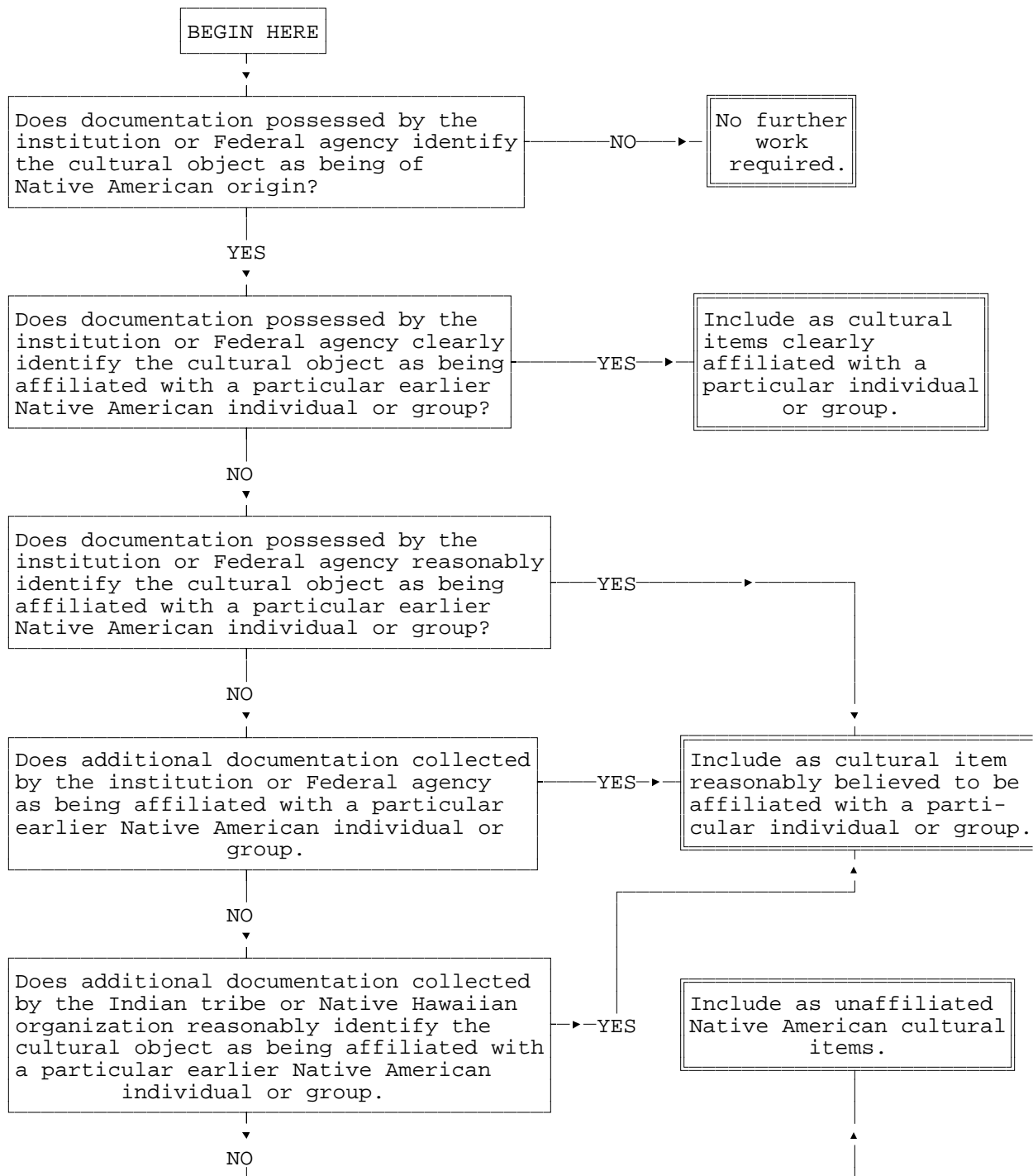
Attachment 1

Please feel free to contact Fred Poe at (000) 000-0000 regarding the identification and potential repatriation of unassociated funerary objects, sacred objects, or objects of cultural patrimony in this collection that are, or are likely to be, culturally affiliated with your Indian Tribe. You are invited to review our records, catalogues, relevant studies or other pertinent data for the purpose of determining the geographic origin, cultural affiliation, and basic facts surrounding acquisition and accession of these items. We look forward to working together with you.

Sincerely,

Museum Official
Major Museum

**PROCEDURES FOR DETERMINING
NATIVE AMERICAN IDENTITY AND CULTURAL AFFILIATION OF
CULTURAL OBJECTS UNDER NAGPRA**



National Park Service

Notice of Completion of Inventory of Native American Human Remains and Associated Funerary Objects within the Campbell Collection, Joshua Tree National Monument, Twentynine Palms, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003(d), of the completion of the inventory of human remains and associated funerary objects within the Campbell Collection, a Federally curated collection at Joshua Tree National Monument, Twentynine Palms, California. Representatives of culturally affiliated Indian tribes are advised that the human remains and associated funerary objects in the Campbell Collection will be retained by the monument until July 20, 1992 after which they may be repatriated to the culturally affiliated groups.

The detailed inventory and assessment of the human remains and associated funerary objects within the Campbell Collection has been made by National Park Service professional curatorial staff, contracted specialists in physical anthropology and prehistoric archeology, and representatives of the following affected tribal organizations:

Agua Caliente Band of Cahuilla Indians
Twentynine Palms Band of Mission Indians
Torez Martinez Reservation
San Manuel Band of Mission Indians
Cabazon Reservation
Anza Band of Cahuilla Indians
Saboba Reservation
Morongo Reservation
Coyote Reservation
Santa Rosa Reservation
Colorado River Indian Tribes Reservation
Fort Mojave Indian Reservation
Chemehuevi Reservation
Quechan Indian Nation of the Fort Yuma Reservation

Between July 1931 and July 1933, Elizabeth and William Campbell carried out legally authorized archeological studies on Federal public lands now within Joshua Tree National Monument. Among the archeological resources collected were human cremations and artifacts believed to be associated with funerary events practiced by prehistoric and historic Native Americans. Recent assessment studies indicate that eleven individuals are represented; approximately 12,225 Native American artifacts are believed to have been associated with the funerary events. These artifacts include historic glass trade beads, native shell beads, chipped and other stone implements, pottery vessels, clay smoking pipes and human effigies, and animal bone tools. One cremation appears to be 19th Century in date; others may be estimated as being between 9th to 14th Century in date. The collection does not contain materials which meet the definition of sacred object or objects of cultural patrimony.

Artifactual evidence does not allow specific identification as to tribal origin. However, recent assessment studies on portions of the Campbell Collection indicate basic similarities in crematory practice, ceramics, stone tool manufacture, ornamentation, and bone or shell artifacts of known archeological traditions believed ancestral to contemporary Cahuilla, Serrano, and Colorado River tribal peoples. Ten of the cremations are likely affiliated to Cahuilla or Serrano cultural traditions. One cremation is determined possibly to be of either Colorado River area cultural affiliation, represented by contemporary Quechan, Mojave, Maricopa or Chemehuevi peoples, or of Diegueño cultural affiliation to the southwest of the monument.

Attachment 2

Representatives of any Indian tribe believed to be culturally affiliated with the human remains and associated funerary objects of the Campbell collection that have not been contacted should talk with Superintendent David E. Moore, Joshua Tree National Monument, 74485 National Monument Drive, Twentynine Palms, CA, 92277, (619) 367-3676, before July 20, 1992.

Dated: June 9, 1992

Francis P. McManamon
Departmental Consulting Archeologist
Chief, Archeological Assistance Division

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